

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12852, of 524 Corporation, pursuant to Paragraph 8207.11 for a variance from the use provisions (Section 3103) to use the first and second floors of the subject dwelling as a flat in an R-3 District at premises 2202 - 16th Street, S.E. (Square 5755, Lot 819).

HEARING DATE: January 24, 1979
DECISION DATE: February 28, 1979

FINDINGS OF FACT:

1. The subject property is located on the east side of 16th Street, S.E. approximately twenty-five feet south of its intersection with W Street. It is known as 2202 - 16th Street, S.E., and is in an R-3 District.

2. The subject site consists of 1,973 square feet of land area and is rectangular in shape. The property is developed with a two story red brick row dwelling. The exterior of the property appears run down and lacks exterior maintenance. The surrounding area consists of mixed residential dwelling types. This building is not within the Anacostia Historic District boundaries.

3. To the north and on the southeast corner of 16th Street and W Street adjacent to the subject site there is a small neighborhood convenience store, Paramount Grocery, in the R-3 District. Across W Street there are detached and row dwellings in the R-3 District. To the east are semi-detached and detached dwellings in the R-3 District. To the south are semi-detached dwellings in the R-3 and to the west and northwest across 16th Street there are apartment buildings in the R-5-A District.

4. There was testimony that the subject premises was built in 1942 and that since that time it has been used as a flat. There is no recorded certificate of occupancy authorizing the flat use.

5. Prior to August 11, 1978, the property was zoned R-5-A, where a flat use is permitted as a matter-of-right. By Order No. 227, dated August 10, 1978 effective August 11, 1978, the Zoning Commission rezoned the property to R-3.

6. A flat is not permitted as a matter-of-right in an R-3 District. A flat is first permitted in an R-4 District.

7. The applicant is requesting permission to continue the use of the subject premises as a flat.

8. There are two units in the subject premises each consisting of a living room, bedroom, kitchen and bath. Each has its own heating unit and each has its own separate entrance.

9. The Office of Planning and Development, by report dated January 22, 1979, recommended that the application be approved on the grounds that the variance can be granted without causing substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the Zoning Regulations. The OPD further noted that a denial of the variance would create a severe hardship on the present tenants in view of the present shortage of housing in the District of Columbia. The OPD conditioned its recommendation to the effect that a landscaping plan and building elevation plan showing proposed exterior treatment and repairs be submitted to the Board for its approval.

10. Advisory Neighborhood Commission 6C made no recommendation on the application.

11. There was no opposition to the application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a use variance, the granting of which under the present Zoning Regulations requires a showing of an exceptional or undue hardship stemming from the property. However, in this case, the Board notes that the use of the premises as a flat existed since 1942, a time prior to the current Zoning Regulations. The Board further notes that the use prior to August 11, 1978, existed in an R-5-A District where the subject use was permitted as a matter-of-right and would be permitted today if a proper certificate of occupancy had been obtained. The Board further concludes that the subject flat use can be continued without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 3-0 (Chloethiel Woodard Smith, William F. McIntosh and Leonard L. McCants to GRANT; Theodore F. Mariani and Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 3 APR 1979

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.